IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

C.W.P. No. 17033 of 2006

Date of Decision: October 28, 2006

Krishna Devi

…..Petitioner

Vs.

State of Haryana and others

…..Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR.

HON'BLE MR. JUSTICE M.M.S. BEDI.

Present:- Mr. D.R. Bansal, Advocate
for the petitioner.

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M.M. KUMAR. J. (ORAL)

The prayer made by the petitioner in the instant petition filed under Article 226 of the Constitution is for quashing order dated September 5, 2006 (P-9) declining her request for ante-dating her date of appointment from April 17, 1998 to December 29, 1995. It is admitted position that the petitioner who belongs to Backward Class was selected in the year 1995 but instead of giving her appointment, one Smt. Sarla Devi was appointed. On the basis of the report made by Deputy Commissioner, Faridabad, this Court had issued directions in Civil Writ Petition No. 18011 of 1997 filed by the petitioner that the claim of the petitioner for appointment in preference to aforementioned Sarla Devi be considered. Accordingly, her claim was considered and she was issued an order of appointment on April 7, 1998. The petitioner remain content with the appointment given to her on April 7, 1998 without raising any objection or making any claim w.e.f. December 29, 1995 when Sarla Devi was appointed. However, she made representations on September 22, 1998 (P-5) and June 24, 2004 (P-6). The representations made by the petitioner have been rejected vide impugned order dated September 5, 2006 (P-9).

Learned counsel for the petitioner has argued that the petitioner deserves to be given the date of appointment from which Sarla Devi was appointed on December 29, 1995, because for no fault of her she was made to suffer from December 29, 1995 to April 17, 1998. According to the learned counsel, the question of delay would not come in way of the petitioner, once the claim has been rejected by the respondents on September 5, 2006 (P-9).

Having heard the learned counsel, we find that the claim of the petitioner is highly belated. After the direction issued by this Court on December 5, 1997, the petitioner was issued appointment letter on April 7, 1998 (P-4). The aforementioned date of appointment has been accepted by the petitioner for over 8 long years without raising any dispute in a Court of law. The filing of representation by the petitioner and decision thereon by the respondent authority would not bring to the petitioner a fresh cause of action so as to entitle her to get the relief by waiving the period of limitation. There is no explanation forthcoming from the petitioner for not agitating her grievance before the Court after she has filed representation on September 22, 1998 (P-5). After filing representation on September 22, 1998 she was required to approach the Court within a reasonable time. Sending of legal notice on 11.7.2005 through her counsel would not clothe her with a fresh cause of action nor the decision taken thereon vide order dated September 5, 2006 would arm her with fresh lease of limitation. It is well settled that the legal remedies are required to be availed within a reasonable time from the date, cause of action has arisen. In the present case, the cause of action has arisen on April 17, 1998 and the petitioner should have approached the Court within reasonable time of six months to one year, as has been laid down by a Constitution Bench of Hon'ble the Supreme Court in **S.S. Rathore v. State of M.P.**, AIR 1990 SC 10. Even a civil suit in the instant case would not be competent as a period of limitation from the date of cause of action which arose on April 17, 1998 has expired. The period of limitation of three years provided for filing a civil suit can

easily be imported in the filing of a writ petition, as has been held by Hon'ble the Supreme Court in the case of **State of M.P. v. Bhai Lal Bhai**, AIR 1964 SC 1006. There is no merit in the petition which suffers from delay and laches. Accordingly, the same is dismissed.

(M.M.KUMAR)
JUDGE

October 28, 2006
sanjay

(M.M.S.BEDI)
JUDGE